[Cite as Maag v. Miami Univ., 2005-Ohio-648.]

IN THE COURT OF CLAIMS OF OHIO

DR. EDWARD MAAG	:
Plaintiff	:
ν.	: CASE NO. 2004-10736-AD
MIAMI UNIVERSITY	: <u>MEMORANDUM DECISION</u>
Defendant	:

FINDINGS OF FACT

{¶1}1) On December 9, 2004, plaintiff, Dr. Edward Maag, filed a complaint against defendant, Miami University, alleging his automobile was damaged as a result of negligence on the part of defendant's employee in conducting lawn maintenance activity on University grounds.

 $\{\P 2\}$ 2) Plaintiff sought damages in the amount of \$250.00, his insurance coverage deductible for automotive repair. Plaintiff acknowledged he carries insurance coverage for automotive property damage with a \$250.00 deductible provision. On December 27, 2004, the \$25.00 filing fee was paid.

 $\{\P 3\}$ 3) On December 20, 2004, defendant filed an investigation report admitting liability for plaintiff's property damage, but asserting his recovery should be limited to his insurance coverage deductible amount.

CONCLUSIONS OF LAW

 $\{\P 4\}$ 1) Defendant was charged with a duty to exercise reasonable care for the protection of plaintiff's property while performing lawn maintenance. In regard to the facts of this claim

negligence on the part of defendant has been shown. Baisden v. Southern Ohio Correctional Facility (1977), 76-0617-AD; Stewart v. Ohio National Guard (1979), 78-0342-AD;

 $\{\P 5\}$ 2) R.C. 3345.40(B)(2) states in pertinent part:

{**¶6**} "If a plaintiff receives or is entitled to receive benefits for injuries or loss allegedly incurred from a policy or policies of insurance or any other source, the benefits shall be disclosed to the court, and the amount of the benefits shall be deducted from any award against the state university or college recovered by plaintiff.

 $\{\P,7\}$ Thus, pursuant to the statutory requirement of R.C. 3345.40(B)(2), compensation for the automotive repair expenses shall be limited to \$250.00, plaintiff's insurance deductible.

 $\{\P 8\}$ 3) Plaintiff has suffered damages in the amount of \$250.00, plus the \$25.00 filing fee, which may be reimbursed as compensable damages pursuant to the holding in *Bailey v. Ohio Department of Rehabilitation and Correction* (1990), 62 Ohio Misc. 2d 19.

IN THE COURT OF CLAIMS OF OHIO

DR. EDWARD MAAG	:	
Plaintiff	:	
v.	:	CASE NO. 2004-10736-AD
MIAMI UNIVERSITY	:	ENTRY OF ADMINISTRATIVE DETERMINATION
Defendant	:	DETERMINATION

Having considered all the evidence in the claim file and, for the reasons set forth in the memorandum decision filed concurrently herewith, judgment is rendered in favor of plaintiff in the amount of \$275.00, which includes the filing fee. Court costs are assessed against defendant. The clerk shall serve upon all parties notice of this judgment and its date of entry upon the journal.

> DANIEL R. BORCHERT Deputy Clerk

Entry cc:

RDK/laa 12/28

Filed 1/19/05

Dr. Edward Maag 1222 West U.S. 22-3 Maineville, Ohio 45039

Sent to S.C. reporter 2/16/05

Plaintiff, Pro se

Paul S. Allen Court of Claims Coordinator Miami University Roudebush Hall Room 14 Oxford, Ohio 45056 For Defendant